3 children dependent on her about $30 a month each. The widow sold coffee from the house in which the family lived, and earned about $100 a month, an earning which is unaffected by the death of the deceased, and does not require consideration in calculating the sum to be awarded.

During the life-time of her husband the widow saved $800 out of her house-keeping money, and was given $600 by her brother-in-law after her husband's death. These sums require to be deducted from any sums calculated. The family was deprived, on the death of the deceased, of a sum of $140 a month, an amount necessary to maintain the widow and the 3 dependent children. It is reasonable to suppose that the deceased could have carried on his work as a trishaw driver for a further eleven years.

On the basis of $140 per month for 11 years, the cost of an annuity would be $13,860. The fact that he could no longer pursue the career of a trishaw driver for more than another eleven years did not necessarily mean an end to his earning capacity, and a further sum could reasonably be added, say $1,200. From this total of $15,060 must be deducted the sum of $800 savings from the house-keeping money and $600 given after the death of the deceased to the widow by her brother-in-law. The resulting figure is $13,660. To this must be added the sum of $400 for funeral expenses and $350 for costs of letters of administration, giving a total of $14,410. The total of the amounts awarded in the Court below to the deceased's dependents, deducting the sum of $288.33 which was awarded under section 8, is $16,711.67. The calculations I have made do not err on the side of generosity, and bearing this in mind I do not feel that the awards made in the Court below are so manifestly excessive that they require reduction.

I would dismiss the appeal with costs, and order the deposit to be paid out to the respondents against their costs.

**Brown, J. and Knight, J.** concurred.

*Appeal dismissed.*

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## HARDIAL SINGH v. REGINA.

[A. Cr. J. (Murray-Aynsley, C.J.) January 22, 1953]

[Singapore — Magistrate's Appeal No. 114 of 1952]

*Merchandise Marks Ordinance (Cap. 157), s. 12 — Importing goods marked with counterfeit trade mark — Reasonable precautions not taken — Claim of innocence.*

The appellant was charged under section 12 of the Merchandise Marks Ordinance with importing shirts with a counterfeit trade mark. Each shirt had three marks which were alleged to be counterfeit. Three separate charges were made in respect of the three different marks and the appellant was convicted on all three charges.

**Held:** (1) the appellant should have been convicted on only one charge as only one offence could be committed in respect of one article however many marks there may be on it; (2) the appellant knowingly imported the shirts and having this knowledge he did not take any reasonable precautions, could not claim that he had acted innocently. Where steps under section 12(a) of the Merchandise Marks Ordinance would have been of any avail then and then only could an importer rely on section 12(c).

*Case referred to:—*

(1) *Rex v. Ebata* (1938) M.L.J. 46 dissented from.

MAGISTRATE'S APPEAL.

*K. A. Seth* for the appellant.

*Dr. C. H. Withers-Payne* for the respondent.

*Cur. Adv. Vult.*

**Murray-Aynsley, C.J.** : — This case arose out of the importation of shirts by the appellant. Each shirt had three marks which were alleged to be counterfeit. Three separate charges were made in respect of the three different marks and the appellant was convicted on all these charges. He should have been convicted on only one charge as, in my opinion, only one offence can be committed in respect of one article however many marks there may be on it.

There were technical objections to the first and third charges. Without considering the merits of these objections, I think that there is nothing to be said against the second charge. As to this charge, there is no doubt that the shirts bore a counterfeit mark "Dart", and that the appellant imported the shirts knowing that they had this mark on them. Having this knowledge he did not take any reasonable precautions which might have brought the case under exceptions (a) and (b). As ordinary precautions by way of enquiry would have shown that the marks were counterfeit, the appellant cannot therefore claim that he acted innocently.

This I take to be the effect of the English cases. Where steps under (a) would not have been of any avail then and then only can an importer rely on (c). On this point I think that the case of *R. v. Ebata*[1], was wrongly decided, but that does not affect the present case.

*Order accordingly.*